



California Regional Water Quality Control Board

San Diego Region



Terry Tamminen
Secretary for
Environmental
Protection

9174 Sky Park Court, Suite 100, San Diego, California 92123-4340
(858) 467-2952 • Fax (858) 571-6972
<http://www.swrcb.ca.gov/rwqcb9>

Arnold Schwarzenegger
Governor

December 9, 2004

Mr. Roger Turner
Eastern Municipal Water District
P.O. Box 8300
Perris, Ca 92572-8300

Certified Mail – Return Receipt Requested
7004 0750 0001 2691 3102

Mr. David Beador
Beador Construction Company, Inc.
26320 Lester Circle
Corona, CA 92883

Certified Mail – Return Receipt Requested
7004 0750 0001 2691 3140

In reply refer to:
CA:14-1177.02:rodrv

Dear Sirs:

**SUBJECT: COMPLAINT NO. R9-2004-0069 FOR ADMINISTRATIVE CIVIL
LIABILITY FOR MANDATORY MINIMUM PENALTY UNDER WATER
CODE § 13385, VIOLATION OF ORDER NO. 2001-96, NPDES NO.
CAG919002**

**FACILITY: EXTRACTED GROUNDWATER DISCHARGE TO THE MURRIETA
CREEK FROM THE FIRST STREET SEWER CROSSING – FIRST
STREET, TEMECULA, CALIFORNIA (WDID NO. 9 000001177)**

California Regional Water Quality Control Board, San Diego Region (Regional Board) records indicate that from September 2003 to July 2004, as an enrollee in the Regional Board's Order No. 2001-96, NPDES No. CAG919002, *General Waste Discharge Requirements for Groundwater Extraction and Similar Waste Discharges From Construction and Remediation Projects to Surface Waters within the San Diego Region, Except for San Diego Bay*, Eastern Municipal Water District and Beador Construction Company, Inc. (dischargers) discharged extracted groundwater to the Murrieta Creek from the First Street Sewer Crossing – First Street, Temecula, California.

During this period, monitoring reports submitted by Beador Construction Company, Inc. indicated that groundwater discharged from this facility exceeded the effluent limitation for Total Nitrogen, Dissolved Oxygen, Flow Rate, Total Phosphorus, Fecal Coliform, Settleable Solids, Total Suspended Solids, and Total Coliform as set forth in the enclosed Complaint.

Mandatory Minimum Penalties

Provisions of Water Code Sections 13385(h)(1) require that mandatory minimum penalties be imposed whenever a person violates effluent limitations contained in a waste discharge requirement. In lieu of any additional information, the amount of the mandatory minimum

California Environmental Protection Agency

penalty that must be assessed for the reported effluent limitation violations is \$189,000. The mandatory minimum penalty is further described in the enclosed Complaint No. R9-2004-0069, *Administrative Civil Liability with Mandatory Minimum Penalties*, for the amount of \$189,000 for violations of the effluent limitations established by Order No. 2001-96.

Please notify this office immediately if you have any information that disputes the validity of these violations or if you can demonstrate the violations are exempt from mandatory penalties per exemption criteria contained in Water Code section 13385(j). Written documentation supporting a claim that disputes the validity of these violations must be received by January 10, 2005.

Waiver of Right to Hearing

You have the option to waive your right to a hearing. Waiver of the hearing constitutes admission of the validity of the allegation of violations in the Complaint and acceptance of the assessment of civil liability in the amount of \$189,000 as set forth in the Complaint. Be aware that if you intend to waive your right to a hearing before the Regional Board, you or an authorized agent are required to:

1. Sign and return the enclosed waiver form with a cashier's check for the amount of civil liability indicated in the Complaint by 5:00 p.m., Monday, January 10, 2004.
2. Publish the enclosed public notice in a newspaper circulated in the Temecula area no later than January 7, 2004. Verification that the notice has been published must be submitted to the Regional Board no later than January 10, 2004.

Public Hearing

If you do not elect to waive your right to a public hearing, a public hearing on this matter will be held before the Regional Board at its tentatively scheduled meeting on March 9, 2005, at the Regional Board Meeting Room, 9174 Sky Park Court, San Diego, California. At the hearing the Regional Board will determine the validity of the allegations and, if the allegations are found to be true, will consider whether to assess civil liability in the amount proposed by the Complaint, or in some other amount, provided that, for violations of effluent limitations in waste discharge requirements for discharges of pollutants from point sources to navigable waters, mandatory minimum penalties prescribed in subdivisions (h) and (i) of Section 13385 of the California Water Code will be applicable.

The *Submittal of Written Information Procedures* describing the written materials and prescribed submittal dates required by the Regional Board and *Hearing Procedures* for the public hearing will be mailed to you not less than 30 days before the hearing date. Further, an agenda for the hearing will be mailed to you approximately 10 days before the hearing date.

Eastern Municipal Water District
Beador Construction Company, Inc.
Complaint No. R9-2004-0069

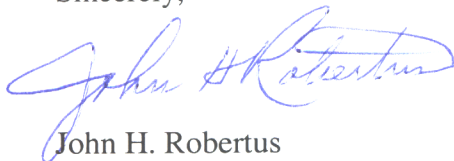
- 3 -

December 9, 2004

The heading portion of this letter includes a Regional Board code number noted after "In reply refer to:" In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

If you have any questions please contact Vicente R. Rodríguez at (858) 627-3940 or
rodrv@rb9.swrcb.ca.gov

Sincerely,



John H. Robertus
Executive Officer

JHR:mpm:mja:vrr

Enclosures: 1. ACL Complaint No. R9-2004-0069
2. Waiver of Hearing Form
3. Notice of Waiver of Public Hearing for Newspaper Notification

cc: 1. John Phillips, Regional Board
2. Kathi Moore, Chief
Compliance Office
U.S. Environmental Protection Agency, M.S. WTR-7
75 Hawthorne Street, San Francisco, California 94105

For Internal Use Only

V:	9/25/2003	161278	11/6/2003	177509	4/6/2004	177532	4/20/2004	177543	5/25/2004	177556	6/30/2004	182439	6/30/2004	182423
V:	9/25/2003	161279	11/6/2003	177521	4/6/2004	177536	4/20/2004	177540	6/2/2004	182420	6/30/2004	182438	7/7/2004	182440
V:	9/25/2003	166291	11/19/2003	177508	4/6/2004	177541	4/20/2004	177538	6/16/2004	182421	6/30/2004	182436	7/14/2004	182441
V:	9/29/2003	166292	11/19/2003	177522	4/6/2004	177542	4/20/2004	177527	6/16/2004	182429	6/30/2004	182434	7/21/2004	182442
V:	10/8/2003	161427	11/19/2003	177523	4/6/2004	177535	4/27/2004	177526	6/16/2004	182431	6/30/2004	182425	7/28/2004	182443
V:	10/14/2003	161428	4/6/2004	177524	4/13/2004	177533	4/27/2004	177534	6/16/2004	182437	6/30/2004	182427		
V:	10/22/2003	161429	4/6/2004	177546	4/20/2004	177525	4/27/2004	177531	6/16/2004	182435	6/30/2004	182430		
V:	10/22/2003	161430	4/6/2004	177548	4/20/2004	177550	5/5/2004	177552	6/16/2004	182426	6/30/2004	182433		
V:	10/22/2003	166765	4/6/2004	177547	4/20/2004	177549	5/11/2004	177553	6/16/2004	182424	6/30/2004	182432		
V:	10/23/2003	161277	4/6/2004	177545	4/20/2004	177544	5/18/2004	177555	6/23/2004	182422	6/30/2004	182428		
E:	12/09/04	83986												

WDID No. 9 000001177
File: 14-1177.02

CA:14-1177.02;rodrv-TL;EMWD-Beador MMP Complaint [2][mja].doc

California Environmental Protection Agency

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

IN THE MATTER OF:

**MR. ROGER TURNER
EASTERN MUNICIPAL WATER DISTRICT
P.O. BOX 8300
PERRIS, CA 92572-8300**

**MR. DAVID BEADOR
BEADOR CONSTRUCTION COMPANY, INC.
26320 LESTER CIRCLE
CORONA, CA 92883
WDID NO. 9 000001177**

COMPLAINT NO. R9-2004-0069

**FOR
ADMINISTRATIVE CIVIL LIABILITY
WITH
MANDATORY MINIMUM PENALTY**

December 9, 2004

**VIOLATION OF EFFLUENT LIMITS IN ORDER)
NO. 2001-96, NPDES NO. CAG919002, GENERAL)
WASTE DISCHARGE REQUIREMENTS FOR)
GROUNDWATER EXTRACTION AND SIMILAR)
WASTE DISCHARGES FROM CONSTRUCTION)
AND REMEDIATION PROJECTS TO SURFACE)
WATERS WITHIN THE SAN DIEGO REGION,)
EXCEPT FOR SAN DIEGO BAY**

**EASTERN MUNICIPAL WATER DISTRICT AND BEADOR CONSTRUCTION
COMPANY, INC. IS HEREBY GIVEN NOTICE THAT:**

1. Eastern Municipal Water District and Beador Construction Company, Inc. (dischargers) are alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (Regional Board) may impose civil liability pursuant to the Porter-Cologne Water Quality Control Act, Water Code section 13385. The violations alleged herein include violations of effluent limits in waste discharge requirements for discharges of pollutants from point sources to navigable waters for which the Regional Board must impose Mandatory Minimum Penalties.
2. The dischargers discharged extracted groundwater from dewatering at the First Street Sewer Crossing construction project to Murrieta Creek subject to waste discharge requirements, including numeric effluent limits, contained in Order No. 2001-96, *NPDES No. CAG919002, General Waste Discharge Requirements For Groundwater Extraction And Similar Waste Discharges From Construction And Remediation Projects To Surface Waters Within The San Diego Region, Except For San Diego Bay*. The dischargers enrolled for regulation under these requirements in September 2003 (WDID No. 9000001177).


ALLEGATIONS

3. From September 2003 through July 2004, the dischargers' discharge exceeded effluent limits for Total Nitrogen, Dissolved Oxygen, Flow Rate, Total Phosphorus, Fecal Coliform, Settleable Solids, Total Suspended Solids, and Total Coliform as set forth in Table 1 (attached).
4. Under subdivisions (h) and (i) of Section 13385 of the Water Code, the Regional Board must impose Mandatory Minimum Penalties of \$189,000 for the alleged violations of effluent limits, as determined by the following:
 - a. Between September 2003 and June 2004 the dischargers exceeded the applicable "Group 1" effluent limit by 40% or more 31 times. Total Nitrogen, Total Phosphorus, Settleable Solids, and Total Suspended Solids are "Group 1" pollutants. These effluent limit violations are "serious" violations under subdivision (h)(2) of Section 13385, for each of which the Mandatory Minimum Penalty under subdivision (h)(1) of Section 13385 is \$3,000 for a total of \$93,000.
 - b. The dischargers' exceeded applicable effluent limits for "Group 1" less than 40% over the limit or other effluent limits on 34 occasions during a period of less than 6 consecutive months as shown in Table 1 (attached); these 34 effluent limit violations are "non-serious" violations under subdivision (i)(1) of Section 13385 of the Water Code; a Mandatory Minimum Penalty of \$3,000 must be imposed for each of the last 32 "non serious" violations, for a total of \$96,000.

PROPOSED CIVIL LIABILITY

5. Pursuant to Section 13385 (h) and (i) of the California Water Code, the Regional Board must impose mandatory minimum penalties of \$189,000 on Beador Construction Company, Inc. No additional civil liability for the violations alleged in this Complaint is recommended.

Dated this 9th day of December 2004.


JOHN H. ROBERTUS
Executive Officer

No.	Date	Constituent Effluent Limitation	Unit	Permitted Limit	Reported Value	Percent Exceedance	Serious Violation (40% or >)	Mandatory Minimum Penalty
1	9/25/2003	Total Nitrogen	mg/l	2	2.7	35%		\$0
2	9/25/2003	Total Nitrogen	mg/l	1	2.7	170%	Yes	\$3,000
3	9/25/2003	Dissolved Oxygen	mg/l	> 5.0	3.58	NA		\$0
4	9/29/2003	Dissolved Oxygen	mg/l	> 5.0	2.93	NA		\$3,000
5	10/8/2003	Dissolved Oxygen	mg/l	> 5.0	3.02	NA		\$3,000
6	10/14/2003	Dissolved Oxygen	mg/l	> 5.0	3.81	NA		\$3,000
7	10/22/2003	Dissolved Oxygen	mg/l	> 5.0	3.61	NA		\$3,000
8	10/22/2003	Total Nitrogen	mg/l	2	2.2	10%		\$3,000
9	10/22/2003	Total Nitrogen	mg/l	1	2.1	110%	Yes	\$3,000
10	10/23/2003	Flow Rate	gpd	252,000	600,000	NA		\$3,000
11	11/6/2003	Total Phosphorus	mg/l	0.1	0.28	180%	Yes	\$3,000
12	11/6/2003	Total Phosphorus	mg/l	0.2	0.28	40%	Yes	\$3,000
13	11/19/2003	Dissolved Oxygen	mg/l	> 5.0	4.78	NA		\$3,000
14	11/19/2003	Total Phosphorus	mg/l	0.1	1.55	1,450%	Yes	\$3,000
15	11/19/2003	Total Phosphorus	mg/l	0.2	1.55	675%	Yes	\$3,000
16	4/6/2004	Dissolved Oxygen	mg/l	> 5.0	3.88	NA		\$3,000
17	4/6/2004	Total Nitrogen	mg/l	2	4.8	140%	Yes	\$3,000
18	4/6/2004	Total Phosphorus	mg/l	0.2	4.59	2,195%	Yes	\$3,000
19	4/6/2004	Total Phosphorus	mg/l	0.1	4.59	4,490%	Yes	\$3,000
20	4/6/2004	Total Nitrogen	mg/l	1	4.8	380%	Yes	\$3,000
21	4/6/2004	Fecal Coliform	MPN/ml	200	300	NA		\$3,000
22	4/6/2004	Settleable Solids	ml/l	0.2	42	20,900%	Yes	\$3,000
23	4/6/2004	Total Suspended Solids	mg/l	30	1560	5,100%	Yes	\$3,000
24	4/6/2004	Total Suspended Solids	mg/l	50	1560	3,020%	Yes	\$3,000
25	4/6/2004	Settleable Solids	ml/l	0.1	42	41,900%	Yes	\$3,000

Table 1: Summary of Effluent Violations

First Street Sewer Crossing

Complaint No. R9-2004-0069

No.	Date	Constituent Effluent Limitation	Unit	Permitted Limit	Reported Value	Percent Exceedance	Serious Violation (40% or >)	Mandatory Minimum Penalty
26	4/13/2004	Fecal Coliform	MPN/ml	200	280	NA		\$3,000
27	4/20/2004	Dissolved Oxygen	mg/l	> 5.0	4.22	NA		\$3,000
28	4/20/2004	Total Phosphorus	mg/l	0.2	0.57	185%	Yes	\$3,000
29	4/20/2004	Total Phosphorus	mg/l	0.1	0.57	470%	Yes	\$3,000
30	4/20/2004	Total Suspended Solids	mg/l	50	123	146%	Yes	\$3,000
31	4/20/2004	Total Suspended Solids	mg/l	30	123	310%	Yes	\$3,000
32	4/20/2004	Settleable Solids	ml/l	0.2	2	900%	Yes	\$3,000
33	4/20/2004	Settleable Solids	ml/l	0.1	2	1,900%	Yes	\$3,000
34	4/20/2004	Total Coliform	MPN/ml	1,000	>1,600	NA		\$3,000
35	4/27/2004	Dissolved Oxygen	mg/l	> 5.0	4.5	NA		\$3,000
36	4/27/2004	Fecal Coliform	MPN/ml	200	1,600	NA		\$3,000
37	4/27/2004	Total Coliform	MPN/ml	1,000	>1,600	NA		\$3,000
38	5/5/2004	Dissolved Oxygen	mg/l	> 5.0	4.12	NA		\$3,000
39	5/11/2004	Dissolved Oxygen	mg/l	> 5.0	3.15	NA		\$3,000
40	5/18/2004	Dissolved Oxygen	mg/l	> 5.0	4.26	NA		\$3,000
41	5/25/2004	Dissolved Oxygen	mg/l	> 5.0	4.36	NA		\$3,000
42	6/2/2004	Dissolved Oxygen	mg/l	> 5.0	4.45	NA		\$3,000
43	6/16/2004	Dissolved Oxygen	mg/l	> 5.0	4.2	NA		\$3,000
44	6/16/2004	Settleable Solids	ml/l	0.2	10	4,900%	Yes	\$3,000
45	6/16/2004	Total Suspended Solids	mg/l	50	1300	2,500%	Yes	\$3,000
46	6/16/2004	Total Phosphorus	mg/l	0.2	1	400%	Yes	\$3,000
47	6/16/2004	Total Nitrogen	mg/l	2	2.5	25%		\$3,000
48	6/16/2004	Fecal Coliform	MPN/ml	200	500	NA		\$3,000
49	6/16/2004	Total Coliform	MPN/ml	1,000	>1,600	NA		\$3,000
50	6/23/2004	Dissolved Oxygen	mg/l	> 5.0	3.5	NA		\$3,000

No.	Date	Constituent Effluent Limitation	Unit	Permitted Limit	Reported Value	Percent Exceedance	Serious Violation (40% or >)	Mandatory Minimum Penalty
51	6/30/2004	Total Phosphorus	mg/l	0.1	2.9	2,800%	Yes	\$3,000
52	6/30/2004	Total Phosphorus	mg/l	0.2	4.8	2,300%	Yes	\$3,000
53	6/30/2004	Total Nitrogen	mg/l	2	6.8	240%	Yes	\$3,000
54	6/30/2004	Total Nitrogen	mg/l	1	4.65	365%	Yes	\$3,000
55	6/30/2004	Total Coliform	MPN/ml	1,000	9,000	NA		\$3,000
56	6/30/2004	Fecal Coliform	MPN/ml	200	2,400	NA		\$3,000
57	6/30/2004	Settleable Solids	ml/l	0.2	80	39,900%	Yes	\$3,000
58	6/30/2004	Total Suspended Solids	mg/l	30	3800	12,567%	Yes	\$3,000
59	6/30/2004	Total Suspended Solids	mg/l	50	6300	12,500%	Yes	\$3,000
60	6/30/2004	Settleable Solids	ml/l	0.1	45	44,900%	Yes	\$3,000
61	6/30/2004	Dissolved Oxygen	mg/l	> 5.0	1.9	NA		\$3,000
62	7/7/2004	Dissolved Oxygen	mg/l	> 5.0	3.2	NA		\$3,000
63	7/14/2004	Dissolved Oxygen	mg/l	> 5.0	3.2	NA		\$3,000
64	7/21/2004	Dissolved Oxygen	mg/l	> 5.0	2.1	NA		\$3,000
65	7/28/2004	Dissolved Oxygen	mg/l	> 5.0	4.1	NA		\$3,000
								\$189,000



California Regional Water Quality Control Board

San Diego Region



Terry Tamminen
Secretary for
Environmental
Protection

9174 Sky Park Court, Suite 100, San Diego, California 92123-4340
(858) 467-2952 • Fax (858) 571-6972
<http://www.swrcb.ca.gov/rwqcb9>

Arnold Schwarzenegger
Governor

WAIVER OF RIGHT TO A HEARING

Mr. Roger Turner
Eastern Municipal Water District
P.O. Box 8300
Perris, Ca 92572-8300

Administrative Civil Liability
Complaint No. R9-2004-0069
\$189,000
December 9, 2004

Mr. David Beador
Beador Construction Company, Inc.
26320 Lester Circle
Corona, CA 92883

WDID No. 9 000001177
FIRST STREET SEWER CROSSING

By signing below, I agree to waive my right to a hearing before the California Regional Water Quality Control Board, San Diego Region with regards to the violations alleged in the above referenced Complaint and to remit payment for the civil liability imposed. I understand that I am authorized to give up the right to be heard, and to argue against the allegations made by the Executive Officer in this Complaint, and against the imposition of, or the amount of, civil liability proposed. I have enclosed a cashier's check or money order made payable to the State Water Resources Control Board for the civil liability imposed.

Signature

Print Name

Title

Date

Send this signed form to:

John H. Robertus, Executive Officer
C/O Compliance Assurance Unit
California Regional Water Quality Control Board – San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123

CA:14-1177.02:rodrv-WVR:EMWD-Beador MMP Complaint [1][vrr].doc

California Environmental Protection Agency



Recycled Paper

NOTICE OF WAIVER OF PUBLIC HEARING

**California Regional Water Quality Control Board, San Diego Region
Issuance of Administrative Civil Liability (ACL) Order
With Mandatory Minimum Penalties against
Eastern Municipal Water District
and
Beador Construction Company, Inc.**

On November 16, 2004, the California Regional Water Quality Control Board, San Diego Region (Regional Board) issued Complaint No. R9-2004-0069 to Eastern Municipal Water District and Beador Construction Company, Inc. (dischargers) in the amount of \$189,000 for alleged violations of Regional Board Order No. 2001-99, NPDES No. CAG919002, *General Waste Discharge Requirements for Groundwater Extraction and Similar Waste Discharges From Construction and Remediation Projects to Surface Waters within the San Diego Region, Except for San Diego Bay*. The dischargers have elected to waive their right to a public hearing in this matter. Waiver of the hearing constitutes admission of the validity of the allegation of violations in the Complaint and acceptance of the assessment of civil liability in the amount of \$189,000 as set forth in the Complaint. The Regional Board will consider accepting the dischargers' waiver at its March 9, 2005 meeting.

Written comments regarding the allegations contained in Complaint No. R9-2004-0430, and/or acceptance of the waiver will be accepted through Tuesday, February 8, 2005.

The Regional Board's March 9, 2005 meeting will be at the Regional Board office located at 9174 Sky Park Court, San Diego, California. The meeting will begin at 9:00 a.m. Oral comments for this item may be made during the meeting upon receipt of a request to speak slip. For more information regarding this matter please call Vicente Rodriguez at (858) 627-3940 or visit the Regional Board's web site at www.swrcb.ca.gov/rwqcb9

John H. Robertus
EXECUTIVE OFFICER